

1 D. Liess

2 if not all, of the customers had difficulty in  
3 working with Offset Paperback and Berryville  
4 Graphics.

5 Offset Paperback was referred to in the  
6 industry as the RR Donnelley of mass marketing, and  
7 that is a label that you don't want to have because  
8 RR Donnelley is an extremely inflexible organization.  
9 That is why people -- and they did not do mass market  
10 paperback books, but Offset Paperback did, and that  
11 is sort of the name that they got was the RR  
12 Donnelley of mass-market printing.

13 Q. Just to clarify, Offset Paperback Mfrs.  
14 prints paperback books, correct?

15 A. Yes.

16 Q. What does Coral Graphics produce?

17 A. Coral Graphics prints covers and dust  
18 jackets for books.

19 Q. What does Berryville Graphics produce?

20 A. Berryville Graphics produces a hard-cover  
21 book and some soft-cover books.

22 Q. What does Dynamic Finishing produce?

23 A. Dynamic Finishing puts foil stamping and  
24 embossing, decorative treatments to the covers.

25 Q. Those four companies work together to

1 D. Liess

2 Q. There was a change in the industry  
3 occurring at that time, correct?

4 MRS. BRODY: Do you understand the  
5 question?

6 THE WITNESS: I don't.

7 A. Can you help me out? What kind of  
8 change are you talking about?

9 Q. Has the publishing industry changed in  
10 the last ten years?

11 A. Yes.

12 Q. The number of books being sold has  
13 decreased?

14 A. Correct.

15 Q. It's part of a digital revolution?

16 A. Back up a minute now.

17 I don't want anybody to get mad at me for  
18 this, but once the change was made in 2008, we had a  
19 record year in top line and bottom line growth, which  
20 won me the "Entrepreneur of the Year" award within  
21 Bertelsmann.

22 For me to tell you that the market was  
23 changing at that time, I can't tell you that.

24 If you ask me if the market is changing  
25 as we speak today, I can say absolutely, but we got

1 D. Liess

2 I am going to tell you that it was in  
3 April.

4 Q. So this was after Markus Dohle's comments  
5 about the sales staff being complacent, correct?

6 A. Well, it was when I was put in charge. I  
7 am not going to sit around and waste time.

8 He gave me a job to do, and I was going  
9 to do it to the absolute best of my ability.

10 Q. What job did he give you?

11 A. It was to be in charge of, what was at  
12 the time, Arvato Print USA.

13 Q. Did he talk to you about the sales staff  
14 being complacent other than at this meeting?

15 A. Did he specifically talk to me about  
16 that?

17 Not necessarily, no. It was more -- I  
18 think that was driven more maybe by me than by him.

19 Q. The next day after the sales staff  
20 meeting in March of 2007, you were put in charge of  
21 Offset and Berryville, correct?

22 A. I think that it was St. Patrick's Day,  
23 which would have been March 17th, if that was a  
24 Friday of that year, that is when it was.

25 Q. You recall that it was within days of

1 D. Liess

2 the problem with the question --

3 MRS. BRODY: Right. I pointed it out.

4 MR. HELLER: I think that --

5 MRS. BRODY: Push on.

6 MR. HELLER: I think that the witness  
7 could have answered it.

8 Q. After you took over the  
9 responsibilities of the four companies, did you ever  
10 have a conversation with Markus Dohle about the  
11 compensation of the sales staff?

12 A. I did, and I cannot tell you the time  
13 frame that took place.

14 Like I said, it was a bundled effect, if  
15 you will, where my responsibility was to get cost out  
16 of the business.

17 I looked at everything from compensation  
18 of salespeople, compensation of managers, wasteful  
19 spending, lack of synergies, there were an awful lot  
20 of opportunities that were out there that we were not  
21 taking advantage of being two separate companies.

22 As soon as we became one separate  
23 company, I immediately kicked things into overdrive,  
24 and had a remarkable result in our cost-cutting  
25 efforts, and the sales compensation was part and

1 D. Liess

2 parcel of that.

3 Q. When you were given responsibility for  
4 Offset and Berryville, did you receive an increase in  
5 compensation?

6 A. No, I did not.

7 Q. Did you receive --

8 A. Not right away.

9 Q. You ultimately did?

10 A. Ultimately I did.

11 Q. How long after you took over the  
12 companies?

13 A. I did not get an increase until January  
14 of that following year.

15 I told Markus Dohle that I did not want  
16 to receive an increase until he saw what I could do,  
17 to make sure that I was the guy for the job, and  
18 whatever my increase in compensation was, I wanted it  
19 to be performance based.

20 Q. Did he offer you an increase at the time  
21 that he gave you --

22 A. He sat back, and he gave me a look of "I  
23 can't believe that you don't want more money."

24 Q. But did he offer?

25 A. He said, "We have to sit back and talk

1 D. Liess

2 responsibilities?

3 A. No.

4 Q. Did he tell you that he wanted you to cut  
5 costs?

6 A. No.

7 Q. He never said he wanted you to cut costs?

8 A. That was my job, to cut costs.

9 Bertelsmann's style of management is  
10 entrepreneurial. Pretty much they don't come and  
11 tell you what to do unless you are not doing good.

12 It was my job to go to them and tell them  
13 what I am doing.

14 That is why I have stayed with the  
15 company for so long, because I have that  
16 entrepreneurial freedom to do what I need to do, and  
17 run the company the way that I feel the company needs  
18 to be run.

19 So there were no specific goals or  
20 objectives for me to achieve, except for me to obtain  
21 top line and bottom line growth, and they were  
22 basically self-induced by myself.

23 Q. After that meeting, you did have a  
24 conversation with Markus Dohle about cutting the  
25 compensation of the sales staff thereafter, correct?

1 D. Liess

2 A. Yes.

3 Q. But you were not sure when, correct?

4 A. Yes.

5 Like I said, it was not a year later, but  
6 it was not a week later either.

7 It was a period of time. I just don't  
8 remember what that was, but it was part and parcel.

9 Q. Did there come a time when Markus Dohle  
10 stopped being involved with Arvato Print, as he was  
11 during this period in early 2007?

12 A. Yes.

13 It was in approximately July.

14 Q. Since the business is entrepreneurial,  
15 he comes in and he leaves?

16 A. Yes, correct.

17 Q. He left in July?

18 A. Yes.

19 He had big problems in Spain and Italy.  
20 He went there to really focus on that because he was  
21 very pleased and impressed that we were in control of  
22 the situation here in the US, and he had nothing else  
23 that he really needed to be involved in.

24 Q. When would you say that Markus Dohle  
25 arrived in New York, as far as when he was here, and

1 D. Liess

2 then he left, when did he arrive in early 2007?

3 A. I am not sure I got that one, I'm sorry.

4 Q. We have established that he left in July  
5 of 2007 --

6 A. Yes.

7 Q. -- to go focus on Spain, correct?

8 A. Yes.

9 Q. When did he come to focus on New York or  
10 the US in 2007?

11 A. He came -- well, I guess that it was in  
12 maybe two or three weeks of me taking over, he came  
13 back, and we sat down, and we talked about a  
14 strategy, what we were going to do, what was our plan  
15 for Berryville Graphics.

16 He was giving me constant updates on  
17 Bob Robinson because, as I mentioned, it was a very  
18 political thing to take a Bertelsmann manager from  
19 another Bertelsmann company, and Prinovis at the time  
20 was not an Arvato company, so he had to basically  
21 cross corporate lines to entice Bob Robinson to come  
22 back.

23 A lot of our discussion was based upon  
24 Bob Robinson, and also what we were going to be doing  
25 in the interim to make sure that Berryville Graphics



1 D. Liess

2 A. Yes, he is.

3 Q. What is his age?

4 A. Fifty-six.

5 Q. Erin Sommerfeld, is she still with the  
6 company?

7 A. Erin is a he, and he is still with the  
8 company.

9 Q. Erin is a he. That is good to know.  
10 Approximately how old is he?

11 A. Forty-eight.

12 Q. Claire Giobbe, is she still with the  
13 company?

14 A. Yes.

15 Q. Approximately how old is she?

16 A. Fifty-six.

17 Q. Are you sure of that age?

18 How do you know that she is 56?

19 A. Because she is older than me, and we talk  
20 about it every so often.

21 I am speculating that she is 56 years  
22 old, but she is definitely over 52.

23 Q. How do you know she is over 52, because  
24 you are 52?

25 A. Because I am 51, and we kid about it all

1 D. Liess

2 Coalition"?

3 A. As to who was going to be on the "Guiding  
4 Coalition" or the role of?

5 Q. As to any aspect of the "Guiding  
6 Coalition."

7 A. A specific conversation that I can  
8 remember, no, but I have to believe that we did have  
9 discussions.

10 Whether we were just out to dinner or  
11 having a meeting -- because he was always very  
12 complimentary of my team, which was the "Guiding  
13 Coalition."

14 Q. Who decided who was going to be on that  
15 team?

16 A. I did.

17 Q. How did you determine who was going to be  
18 on that team?

19 A. Basically, managers that I already had in  
20 place at Coral Graphics, and I also wanted to get  
21 Rick Pincofski because I had a lot of respect for his  
22 knowledge and insight about Offset Paperback and  
23 Berryville Graphics.

24 Q. What was Mr. Pincofski's position?

25 A. CFO for both OPM and Berryville Graphics.

1 D. Liess

2 A. I am going to say I think it was about  
3 \$250,000.

4 Q. Did you know what it was prior to that?

5 A. No.

6 Q. What did you think of Bill Mickelsen's  
7 compensation at that time?

8 A. I thought that it was extremely high.

9 Q. Did you take any steps to speak to Bill  
10 about his compensation?

11 A. Not immediately, no.

12 Q. But later on you did?

13 A. When the new comp plan was put  
14 together -- I did not speak to him personally, but  
15 Chris and Mitch did.

16 Q. Did you ever --

17 A. We as a company did.

18 Q. Did you ever personally try to speak to  
19 Bill Mickelsen about his compensation?

20 A. After Bill learned of the plan, he came  
21 to me and wanted to talk about it.

22 I said, "Bill, it kind of is what it is.  
23 Your sales don't warrant that kind of compensation,  
24 especially when I compare it to people that were in  
25 the Coral world."

1 D. Liess

2 President and, rather than firing me, I have my base  
3 salary cut from \$172,300 to \$35,000, and my bonus of  
4 approximately \$62,500 cut to maybe \$12,500."

5 Is that an accurate reflection of what  
6 you understood Mr. Mickelsen's change in compensation  
7 to be?

8 A. To my recollection, yes, all salespeople  
9 were put on a base of \$35,000.

10 Q. So Mr. Mickelsen's compensation going  
11 from \$172,300 to \$35,000 was a significant change,  
12 correct?

13 A. Yes.

14 MRS. BRODY: I want to register an  
15 objection.

16 That was not his testimony.

17 THE WITNESS: I'm sorry.

18 Q. Is that a drastic reduction?

19 MRS. BRODY: I object.

20 You are not using the right numbers  
21 there.

22 MR. HELLER: The numbers, if I  
23 misspoke, would be \$172,300 prior to \$35,000.

24 MRS. BRODY: You are asking him  
25 according to this letter --

1 D. Liess

2 I don't think that they know what a  
3 journeyman is in Germany, to be honest with you.

4 Q. Do you know what a journeyman is?

5 A. It's a veteran.

6 Q. On what do you base that definition?

7 A. I have the honor of running a company  
8 that is a union shop.

9 I know if you are a journeyman, you are  
10 it. You are not an apprentice anymore. You are  
11 experienced.

12 Q. So it comes from union parlance?

13 A. No, it doesn't come from union parlance.

14 I am telling you how I understand what  
15 journeyman means. It doesn't have anything to do  
16 with unions. It doesn't have anything to do with  
17 anything.

18 Q. Is there a difference between somebody  
19 being called a senior vice-president and a  
20 journeyman, in your opinion?

21 MRS. BRODY: Objection.

22 No one is being called a journeyman.

23 What are you talking about here?

24 MR. HELLER: Let him answer the  
25 question.

1 D. Liess

2 MRS. BRODY: Objection.

3 A. Honestly, I don't have a problem with it.

4 Q. I am asking you if there is a difference  
5 between somebody being titled "Journeyman" and  
6 "Senior Vice-President."

7 A. In my world, no.

8 Q. I want to show you what has previously  
9 been marked as Plaintiff's Exhibit 13.

10 Please take a look at that, and let me  
11 know if you have seen it before.

12 A. Yes.

13 Q. What is that?

14 A. This is the sales compensation plan that  
15 was presented to Bill Mickelsen and every other sales  
16 rep that we had in the organization at the time.

17 Q. When is the first time you saw this, this  
18 one that was given to Bill Mickelsen?

19 A. I don't want to say that I saw the  
20 specifics of Bill Mickelsen's plan.

21 I saw the specifics of the compensation  
22 plan. It did not have the numbers filled in.

23 As I indicated, every sales  
24 representative in the organization received the exact  
25 same compensation plan, so I am familiar with the

1 D. Liess

2 boilerplate, if you will, but not the necessary fill  
3 in the blanks.

4 I probably -- probably -- did not see  
5 Bill's until after it was presented to him, and I did  
6 not study it when I received it either.

7 Q. Why did you receive Bill's plan after it  
8 was presented to him?

9 A. I got everybody's.

10 I did not receive it. I was just given  
11 the liberty of reviewing it.

12 Q. Did you review it?

13 A. If I did, I just looked at it.

14 I did not pay a whole lot of attention to  
15 it because every salesperson received the same exact  
16 thing, and this is what we needed to do for us to hit  
17 our cost-cutting objectives that we had up on our  
18 board.

19 Q. Did the salesmen have to sign the sales  
20 compensation agreement?

21 A. Yes.

22 Q. Did Bill Mickelsen sign his?

23 A. No, and he ignored every e-mail -- every  
24 subsequent e-mail requesting that he do so.

25 Q. Did you reprimand him for that?

1 D. Liess

2 A. We sent e-mails to him, and asked him if  
3 he would be professional enough and respectful enough  
4 to do it, and we still have not gotten it.

5 Q. So his not signing the compensation plan  
6 was disrespectful you thought?

7 A. I thought so, yes.

8 MR. HELLER: Would you mark this as  
9 Plaintiff's Exhibit 17, please.

10 (Plaintiff's Exhibit 17, six-page  
11 document, the first page indicating  
12 "Arvato Print US, Sales Compensation Plan -  
13 Journeymen, Sales Rep, 2007 / July 1 -  
14 Dec 31," Bates stamped Nos. DEF 000364  
15 through DEF 000369, marked for  
16 identification, as of this date.)

17 BY MR. HELLER:

18 Q. I show you what has been marked as  
19 Plaintiff's Exhibit 17.

20 Would you take a look at that, and let me  
21 know if you have ever seen this one.

22 A. I am assuming this is the boilerplate.

23 Q. Take a look at it, and let me know if you  
24 have ever seen it before.

25 A. This exact one, I cannot answer whether I



1 D. Liess

2 Q. Why was Bill Mickelsen given special  
3 consideration?

4 A. I don't know.

5 Q. Did anybody approach you to seek  
6 permission to give him special consideration?

7 MRS. BRODY: Objection; asked and  
8 answered.

9 Q. Just to be clear, I am going to ask  
10 you that.

11 MRS. BRODY: I think it is clear.

12 Q. I know we have had prior testimony,  
13 but I want this to be clear.

14 MRS. BRODY: I am clear.

15 MR. HELLER: That is great, Lauren.

16 A. Like I said, Bill was unhappy. We  
17 wanted to sit down -- when I say, "we," meaning a  
18 company -- and see what could we do to get Bill more  
19 of an income.

20 The special consideration exactly, what  
21 it is, I have no idea.

22 Q. Bill was worth keeping, wasn't he?

23 A. All my salespeople are worth keeping.

24 Q. Bill Mickelsen was worth keeping as an  
25 employee, correct?

1 D. Liess

2 thought.

3 Q. He was your friend for 25 years.

4 A. Yes, but Bill was also going to be -- in  
5 my opinion, Bill was grossly overpaid for many years,  
6 and he was now going to come down in line with the  
7 other salespeople in the organization.

8 I had people that were selling  
9 \$20 million, \$30 million worth of business making  
10 \$140,000, \$150,000, and Bill Mickelsen was selling  
11 \$4 million, making double that.

12 I was not going to stand for it. I was  
13 not going to have it.

14 Q. Do you know what Bill Mickelsen's duties  
15 were as compared to the other salesmen?

16 A. I can tell you that he did not do  
17 anything with his senior vice-president title. He  
18 was nothing more than a salesman. He did not hold  
19 sales meetings.

20 He was hardly in New York from what I  
21 understand. He was really nothing more than a  
22 salesperson.

23 Q. Did you investigate his performance?

24 A. Yes, I did.

25 Q. Who did you speak to?

1 D. Liess

2 that structured at that time.

3 Q. Bill Mickelsen never signed this, as we  
4 established earlier, correct?

5 A. Correct.

6 Q. Was this compensation plan made effective  
7 nonetheless?

8 A. Yes.

9 Q. Did you need Bill to sign it?

10 A. In order for it to become effective?

11 Q. Yes.

12 A. No.

13 Q. Why did you want Bill to sign it?

14 A. Because it was a requirement, and all of  
15 the other salespeople did.

16 Q. Why was it a requirement that  
17 Bill Mickelsen sign this?

18 MRS. BRODY: Asked and answered.

19 MR. HELLER: No, it was not.

20 MRS. BRODY: He just answered it.

21 A. It was required by all of our  
22 salespeople.

23 Q. Why was it required by all of your  
24 salespeople?

25 A. It was a directive from management.

1 D. Liess

2 e-mail from Bill Mickelsen?

3 A. I don't believe that I ever did.

4 Q. The compensation plan was based on a plan  
5 proffered by Markus Dohle, correct?

6 A. I am sorry?

7 Q. The compensation plan was based on a  
8 model by Markus Dohle, correct?

9 MRS. BRODY: Objection.

10 A. No.

11 MR. HELLER: You may not like the  
12 question, but the witness can certainly  
13 answer.

14 MRS. BRODY: It's a total misstatement  
15 of the testimony.

16 MR. HELLER: It's a question. It's  
17 not a misstatement.

18 MRS. BRODY: Yes, it is.

19 Objection.

20 A. I believe it's a question that I have  
21 already answered.

22 This compensation plan was not Markus  
23 Dohle's compensation plan.

24 This compensation plan was a compensation  
25 plan that I had implemented at Coral Graphics

1 D. Liess

2 Q. This is an e-mail chain. At the top is  
3 an e-mail from Bill Mickelsen to Rick Pincofski. It  
4 is Bates numbered DEF 0005.

5 At the bottom of the chain there is an  
6 e-mail from Bill Mickelsen to David Liess, dated  
7 August 21, 2007, in which Bill Mickelsen wrote,  
8 "Dave, Is no news good news or bad news? Sorry to  
9 bug you. Bill."

10 A. Yes.

11 Q. Do you recall receiving that e-mail?

12 A. Yes.

13 Q. What was Bill Mickelsen asking about?

14 A. I believe he wanted to hold off on the --  
15 making the pay adjustment through to maybe the end of  
16 the year, I can't remember specifically, and I told  
17 him all I can do right now is I would be able to play  
18 some games, for lack of a better word, with his  
19 vacation pay at the old rate.

20 Q. You wrote back to Bill Mickelsen that  
21 same day, and it appears to be about 25 minutes  
22 later, based upon what the document reads; would that  
23 be fair to say?

24 A. Based upon the document, you are about  
25 right.

1 D. Liess

2 I would make it 24 minutes.

3 Q. It reads, "Billy, at this point the best  
4 I can do is pay your vacation at the old rate. This  
5 whole sales plan is under scrutiny from the other  
6 side. Sorry."

7 This is you advising Mr. Mickelsen that  
8 you can only pay his vacation at the old rate.

9 A. Yes.

10 Q. What does that mean?

11 A. Whatever his salary was at the time prior  
12 to this, I would pay his two weeks or three weeks,  
13 whatever remaining vacation time, I would pay at that  
14 old rate, as opposed to the new rate.

15 It was more like a -- I could do it  
16 without any issues from anybody, and I can do it more  
17 as a friend to Bill more than anything else.

18 Q. At this point, Bill Mickelsen had not yet  
19 signed the sales compensation plan, correct?

20 A. Correct.

21 Q. He was insubordinate, right?

22 A. Yes.

23 Q. Did you write to him and tell him that he  
24 was being insubordinate?

25 A. No.

1 D. Liess

2 Q. What were the exact words?

3 A. I believe my exact words were, "It was a  
4 big accomplishment for me that I hung on to your  
5 job."

6 Q. Why was that a big accomplishment for  
7 you?

8 A. It was a big accomplishment for me  
9 because there was no parity whatsoever with what Bill  
10 Mickelsen was getting paid compared with what the  
11 rest of my sales organization was getting paid.

12 The rest of my sales people had  
13 significantly, substantially higher account packages  
14 than Bill Mickelsen.

15 If I made my decision based upon what  
16 Bill Mickelsen's level of sales was versus everybody  
17 else's level of sales, we really would not have  
18 missed Bill Mickelsen in the organization.

19 Q. We talked about complacency with  
20 salespeople earlier.

21 Do you recall that?

22 A. Yes.

23 Q. And how some salespeople just service  
24 accounts without building new accounts, correct?

25 A. Yes.

1 D. Liess

2 paying --

3 MR. HELLER: I will withdraw the  
4 question.

5 Q. Bill Mickelsen was making a handsome  
6 salary, correct?

7 A. Yes.

8 Q. Do you think that Michael Gallagher was  
9 paying him that handsome salary if he was not doing a  
10 good job?

11 MRS. BRODY: Objection.

12 A. Michael Gallagher paid a lot of people  
13 too much money in that organization.

14 That is where my biggest opportunity lie  
15 or laid.

16 Q. Did you ever explore with  
17 Michael Gallagher why he was paying Bill Mickelsen  
18 the compensation that he was?

19 A. No.

20 Q. Did you know that Bill Mickelsen received  
21 a bonus of \$65,000 for the year 2006?

22 A. No.

23 Q. As you sit here today, do you think that  
24 maybe you should have asked some of these questions  
25 with respect to Bill Mickelsen?



1 D. Liess

2 MRS. BRODY: Objection.

3 A. What questions should I have asked?

4 Q. Did you know that Bill Mickelsen did not  
5 work on commission before the change in the  
6 compensation plan?

7 A. I did not know that.

8 Q. You did not know that he did not work on  
9 commission?

10 A. I thought there was some commission  
11 component in this.

12 Most salespeople have a commission  
13 component. I just assumed that there was one in  
14 there.

15 Q. If I tell you today that there was not,  
16 that is not something that you knew prior to today?

17 A. No.

18 A bonus could also be labeled a "bonus"  
19 as opposed to a commission.

20 Q. A bonus is different from a commission,  
21 right?

22 A. Not necessarily.

23 Q. Not necessarily?

24 A. Some people would call it a commission.  
25 Some people would call it a bonus.

1 D. Liess

2 A. I am sure if it was more of a -- if he  
3 even made a response, or if it was more of a look of  
4 disbelief. I don't recall.

5 I know that he was sitting and I was  
6 standing when we had the conversation, but I can't  
7 remember if he made a comment after that or not.

8 Q. Have you ever described Bill Mickelsen as  
9 the only person at OPM who ever sold anything for the  
10 company?

11 A. Yes.

12 Q. When did you say that?

13 A. I have said that a couple of times.

14 I still think that he is a good salesman.  
15 If he applied himself, he could go out and sell a  
16 fortune for all of us.

17 Q. There came time when Bill Mickelsen was  
18 assigned to a cubicle in the New York office,  
19 correct?

20 A. Wow, that's really gray.

21 MRS. BRODY: Sorry, I should have  
22 objected.

23 You caught me on that.

24 A. That's really gray.

25 He was not assigned to that cubicle.

1 D. Liess

2 We were doubling up our sales  
3 representatives, and Donna Dempsey put Bill  
4 temporarily in a cubicle, and the reason she did  
5 that, to quote her, "Because he's hardly ever here."

6 She wanted to see what we were doing with  
7 one of the corner offices before a final decision was  
8 made.

9 When I saw Bill sitting in a cubicle, I  
10 kind of raised the devil about it, because I wanted  
11 him to get put into a sales office, or into an office  
12 that he would share with someone like, all of the  
13 other salespeople were doing at the time, including  
14 myself.

15 Q. Looking at Plaintiff's Exhibit 11, in the  
16 fourth paragraph from the top Bill Mickelsen writes  
17 about being shown a cubicle which has become his work  
18 station in the New York office.

19 A. Concerning that --

20 Q. I am just asking if you read it.

21 A. I read it.

22 You don't want me to comment.

23 Yes, I read it.

24 Q. Do you know if Bill Mickelsen was told at  
25 the time that he was shown to the cubicle that it was

1 D. Liess

2 Q. Of course.

3 MRS. BRODY: No snide comments.

4 MR. HELLER: I withdraw the "Of course."

5 Come on.

6 MRS. BRODY: It's one thing to be rude  
7 to me, but it's another thing to be rude to  
8 my client.

9 MR. HELLER: I withdrew the "Of course,"  
10 although you have to admit, it's pretty easy  
11 to be --

12 MRS. BRODY: Both are unacceptable.

13 I don't treat your clients that way,  
14 even though I am --

15 MR. HELLER: Correct.

16 Q. Bill Mickelsen was removed from the  
17 Hachette account, correct?

18 A. Yes.

19 Q. Was he ever reprimanded or disciplined in  
20 connection with the Hachette account?

21 A. He was basically -- it was requested by  
22 the customer.

23 Q. I understand.

24 My question is, was he ever reprimanded  
25 or disciplined by OPM?

1 D. Liess

2 Germany has a mandatory retirement of age 60 rule?

3 A. I heard it, but I don't know if it's -- I  
4 do know that Gunter Thielen, he is still with the  
5 company, and he is 67. He stayed on as our CEO  
6 until, I think, he was about 65.

7 Have I heard it?

8 Yes.

9 Is it with Bertelsmann, or is it with the  
10 country of Germany, I have no idea.

11 I don't care about what happens in  
12 Germany. I care about what happens in the United  
13 States, and there is no mandatory retirement age in  
14 the United States.

15 Q. Do you know the circumstances of how  
16 Gunter Thielen became the CEO of Bertelsmann at the  
17 age of 60?

18 A. Yes.

19 Q. Mr. Middelhoff was terminated from his  
20 role as the CEO of Bertelsmann AG, correct?

21 A. Yes.

22 Q. Then the Mohn family requested that  
23 Gunter Thielen step in as the CEO, correct?

24 A. Yes.

25 Q. Gunter Thielen was 60 years old at the

1 D. Liess

2 No.

3 Q. What else would you have done in your  
4 investigation besides speak to Bill Mickelsen?

5 A. Honestly, I don't know because, like I  
6 said, this entire situation was a result of a  
7 disgruntled employee because he did not particularly  
8 like the way that compensation was adjusted.

9 He did not like the fact that he was  
10 labeled a journeyman, even though his business cards,  
11 and his stationery, and I think to this day he still  
12 signs as senior vice-president of sales and  
13 marketing, Offset Paperback. I never stripped him of  
14 the title.

15 Like I said, up until this day, I believe  
16 that he is still using that title on all of his  
17 correspondence.

18 I wanted to make sure that I could spell  
19 that out to him. That is one of the inconsistencies.

20 I just wanted to make sure that he would  
21 understand where we were coming from as a company.

22 Q. Isn't it true that your hope in speaking  
23 to Bill Mickelsen was to resolve the issues, correct?

24 A. More of setting the record straight  
25 because this (indicating) did not tell me that he was

1 D. Liess

2 Q. You were submitting the plan to Germany,  
3 right?

4 A. I was not submitting it.

5 Q. You were presenting it?

6 A. No.

7 Q. What were you doing?

8 A. As I indicated in my testimony here, I  
9 had a new boss, Markus Dohle. I was not sure how he  
10 operated, what he needed to know, what he did not  
11 need to know.

12 Knowing that this was a big part of my  
13 cost-reduction program, the change in sales  
14 compensation, I wanted to make sure that I had him in  
15 the loop.

16 It was more of a "You have it. If you  
17 have a problem with it, you can call me. You can say  
18 something. You can do whatever you want," but I did  
19 not send it to them for approval. I did not send it  
20 to them for commentary. I sent it to them so that  
21 they would have it.

22 I send a lot of things, not so much now,  
23 but when Markus first came over, I was sending a lot  
24 of information over there because I wanted to make  
25 sure that my backside was covered.